

ESTTA Tracking number: **ESTTA121223**

Filing date: **01/24/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	La Prairie, Inc.
Granted to Date of previous extension	01/24/2007
Address	680 Fifth Avenue New York, NY 10019 UNITED STATES
Attorney information	Martin P. Michael Sonnenschein Nath & Rosenthal LLP Wacker Drive Station, Sears Tower - PO Box 061080 Chicago, IL 60606-1080 UNITED STATES ttab@sonnenschein.com

Applicant Information

Application No	79012085	Publication date	09/26/2006
Opposition Filing Date	01/24/2007	Opposition Period Ends	01/24/2007
International Registration No.	0853301	International Registration Date	06/23/2005
Applicant	BIODROGA COSMETIC GMBH Im Rosengarten 76532 BADEN-BADEN GERMANY		

Goods/Services Affected by Opposition

Class 003. All goods and services in the class are opposed, namely: Cosmetics, perfumery, essential oils

Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2577801	Application Date	11/09/2000
Registration Date	06/11/2002	Foreign Priority Date	NONE

Word Mark	SKIN CAVIAR
Design Mark	
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1987/00/00 First Use In Commerce: 1987/00/00 skin care products, namely, gels that firm and tone the skin

U.S. Registration No.	2577799	Application Date	11/09/2000
Registration Date	06/11/2002	Foreign Priority Date	NONE
Word Mark	ESSENCE OF SKIN CAVIAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1989/00/00 First Use In Commerce: 1989/00/00 skin care products, namely, gel that firms and tones the skin in the eye area		

U.S. Registration No.	2577800	Application Date	11/09/2000
Registration Date	06/11/2002	Foreign Priority Date	NONE
Word Mark	EXTRAIT OF SKIN CAVIAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 skin care products, namely, gels that firm and tone the skin		

Attachments	76164485#TMSN.gif (1 page)(bytes) LA PRAIRIE - BIODROGA COSMETICS.pdf (6 pages)(183603 bytes)
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Signature	/Martin P. Michael/
Name	Martin P. Michael
Date	01/24/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application:

Serial No.: 79-012,085
Filing Date: June 23, 2005
Applicant: Biodroga Cosmetic GmbH
Trademark: GOLDEN CAVIAR BY BIODROGA
Class: International Class 3
Published: September 26, 2006
1310 O.G. No. 4 at TM 427

LA PRAIRIE, INC.

Opposer,

v.

BIODROGA COSMETIC GMBH

Applicant.

Opposition No. _____

To: Honorable Commissioner for Trademarks
Attn: TTAB, 600 Dulany Street, Alexandria, Virginia 22314

SIR:

We are enclosing herewith the Notice of Opposition to the above-identified application.

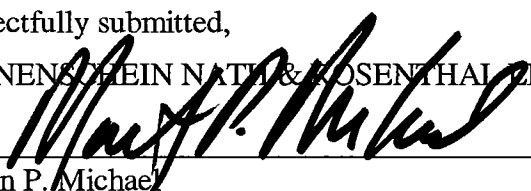
Please charge the \$300.00 opposition filing fee plus any additional charges against the AMEX credit card of Sonnenschein Nath & Rosenthal LLP.

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

Dated: January 23, 2007

By:



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Attorney for Opposer

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application:

Serial No.: 79-012,085
Filing Date: June 23, 2005
Applicant: Biodroga Cosmetic GmbH
Trademark: GOLDEN CAVIAR BY BIODROGA
Class: International Class 3
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LA PRAIRIE, INC.)	
)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
BIODROGA COSMETIC GMBH)	
)	
Applicant.)	
)	

NOTICE OF OPPOSITION

La Prairie, Inc., a corporation organized and existing under the laws of the State of New Jersey, located and doing business at 680 Fifth Avenue, New York, New York 10019, believes it will be damaged by registration of the mark described in the above-referenced application and hereby opposes said application.

As grounds of opposition, Opposer alleges that:

1. By the application herein opposed (the "Opposed Application"), Applicant seeks to register the mark "GOLDEN CAVIAR BY BIODROGA" (the "Opposed Mark") for "cosmetics, perfumery, essential oils" in International Class 3 (the "Opposed Products"). The filing date of the Opposed Application is June 23, 2005. The Community Trademark Registration on which it is based (Registration No. 003739554) was filed on March 29, 2004 and

issued on June 15, 2005 (the "CTM Registration"). Applicant sought to expand the protection of the CTM Registration under the Madrid Protocol and was assigned International Registration No. 0853301. A Request for Extension of Protection of the International Registration to the United States was filed on June 23, 2005 under Section 66(a) of the Trademark Act. The Opposed Application makes no claim of use of the Opposed Mark in the U.S.A. or any claim of priority to the CTM Registration, the International Registration or any other registration or application.

2. Opposer markets and sells cosmetics and skin care products under the mark SKIN CAVIAR.

3. Opposer is the owner of the SKIN CAVIAR trademark for cosmetics and skin care products and the goodwill of the business associated therewith.

4. Opposer has continuously and exclusively used the mark SKIN CAVIAR in commerce in connection with skin care products since at least as early as 1987.

5. Since long prior to the filing date of the Opposed Application (and in fact long prior to the filing date of the CTM Registration), Opposer has used the SKIN CAVIAR mark in commerce in connection with cosmetics and skin care products.

6. Opposer is the owner of the following valid and subsisting registrations on the Principal Register of the Patent and Trademark Office for its "SKIN CAVIAR" mark:

<u>TRADEMARK</u>	<u>REG. NO.</u>	<u>FILING DATE</u>	<u>REG. DATE</u>	<u>GOODS</u>
SKIN CAVIAR	2,577,801	Nov. 9, 2000	June 11, 2002	skin care products namely, gels that firm and tone the skin
ESSENCE OF SKIN CAVIAR	2,577,799	Nov. 9, 2000	June 11, 2002	skin care products namely, gels that firm and tone the skin
EXTRAIT OF SKIN CAVIAR	2,577,800	Nov. 9, 2000	June 11, 2002	skin care products namely, gels that firm and tone the skin

7. Each of said registrations is *prima facie* evidence of the validity of the registered mark and of the registration thereof, of Opposer's ownership of the registered mark, and of Opposer's exclusive right to use the mark in commerce in connection with the goods specified in the registration.

8. As set forth above, Opposer's SKIN CAVIAR mark and registrations have priority over the Opposed Application.

9. The Opposed Products are identical or closely related to goods in connection with which the Opposer has used and uses its SKIN CAVIAR marks and/or goods specified in Opposer's registrations for such marks.

10. Opposer's SKIN CAVIAR mark is a strong and famous trademark and has been a strong and famous trademark since long prior to the filing date of the Opposed Application (and the filing date of the CTM Registration). Sales of Opposer's products bearing the SKIN CAVIAR mark in the United States have totalled millions of dollars. Opposer has spent and continues to spend substantial sums of money in advertising and promoting its products bearing the SKIN CAVIAR name and mark.

11. By reason of Opposer's extensive, long continued and widely promoted sale, promotion and advertising of products bearing Opposer's SKIN CAVIAR mark and due to the high quality of such products, a valuable goodwill has been established in Opposer's SKIN CAVIAR mark and an enviable reputation has been established for products sold under and distinguished by Opposer's SKIN CAVIAR trademark. Members of both the trade and the public recognize and understand that products bearing the SKIN CAVIAR mark are the high quality products of Opposer.

12. The Opposed Mark is confusingly similar to Opposer's SKIN CAVIAR mark.

13. If Applicant were permitted to use or register the Opposed Mark for the Opposed Products, it would cause damage and injury to Opposer's business reputation and would injure and impair Opposer's rights in its SKIN CAVIAR mark because said use or registration is likely to cause confusion, or to cause mistake or to deceive by creating the erroneous impression that the Applicant's products originate with Opposer or from the same source as Opposer's products, or that Applicant's products are authorized, licensed or endorsed by, or are connected in some way with Opposer or its products.

14. Applicant's use and registration of the Opposed Mark would further damage Opposer because such use and registration dilutes the distinctive quality of Opposer's famous SKIN CAVIAR mark.

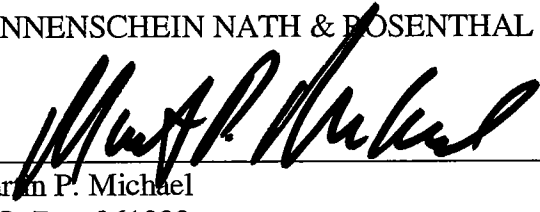
15. If Applicant were granted the registration applied for, it would thereby obtain, at least, the *prima facie* exclusive right to use the Opposed Mark on the Opposed Products. Such registration would thus be a source of damage and injury to Opposer and would be inconsistent with Opposer's rights in its SKIN CAVIAR mark and the registrations therefor.

WHEREFORE, Opposer prays that said application Serial No. 79-012,085 be rejected and that the registration of the Opposed Mark be refused and denied.

SONNENSCHN NATH & ROSENTHAL LLP

Dated: January 23, 2007

By:



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